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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
Petition of the California Public Utilities Commission and the People of the State of California for Waiver of the Federal Communications Commission's Contamination Threshold Rule	)	CC Docket No. 99-200

COMMENTS OF COX COMMUNICATIONS, INC.

Cox Communications, lnc. ("Cox") submits these comments in response to the October 24,2002 ***Notice*** in the above-referenced proceeding.[1] The *Notice* seeks comment on the California Public Utilities Commission's (CPUC) September 5, 2002 petition for a waiver of the Commission's rule on the contamination level for block donations to thousands block number pool. For the reasons described below, Cox opposes the CPUC's proposal to change the ten percent contamination level established in the FCC's *First NRO* ***Order*** to 25 percent for carriers operating in California.[2]

I. The Current Threshold Is Based Upon the Best Available Advice From NANC and INC.

The FCC set the contamination level at ten percent after reviewing the Thousands Block Number Pooling Administration Guidelines prepared by the Industry Numbering Committee (INC) and a report from the Commission's numbering policy advisory body, the North American Numbering Council (NANC). Both documents were the result of extensive research and debate

[1] Public Notice, 'Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission and the People of the State of California for Waiver of the Federal Communications Commission's Contamination Threshold Rule," CC Docket No. 99-200, DA 02-2822 (rel. Oct. 24, 2002) (the *"Notice"*).

[2] Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (*"First NRO* ***Order"***).

among industry members and regulators. In preparing the documents, both NANC and INC examined the impact of thousands block number pooling (TBNP) on the existing local number portability (LNP) infrastructure. The issue of contaminated blocks was scrutinized with particular care because of the enormous additional work required by the necessary intra-service provider porting of the "contaminated" numbers, and the extra storage required to accommodate the smaller ranges of numbers that would be broadcast from the Number Portability Administration Center (NPAC).

NANC and INC studied at length the effect of contaminated blocks on the then-new Efficient Data Representation (EDR) system intended to streamline downloads from the NPAC and to minimize capacity needed in carrier or third-party LNP provider service control points. The major concern was that TBNP with contaminated blocks would "break" the original design for EDR, which was engineered to allow a block of 1000 numbers to be represented as one record. This eventually was tolerated as an acceptable compromise for the sake of number optimization – at the ten percent contamination level. The CPUC claim that EDR technology enables the higher contamination level because of the efficiency it creates ignores the earlier NANC and INC concerns that the system would become less efficient with highly contaminated blocks since even more NPAC broadcasts containing even smaller quantities of numbers would become necessary.

The CPUC provided a study to the FCC that identifies approximately 7,000 blocks as of July 2002 that were contaminated above the current ten percent threshold but below the 25 percent level. However, before accepting the CPUC data and resulting conclusions, the Commission should recognize that many, if not most, of these blocks are likely to be exempt from pooling regardless of the contamination threshold. First, carriers are permitted to hold six

months' worth of inventory of numbcrs. Carriers must prove they are holding something less than a six-month stock to obtain additional numbers. This serves as an important check on hoarding, balanced against carriers' need to serve consumer demand for services. However, carriers are permitted to maintain this reasonable inventory and would not donate these blocks to pools.

Second, in the *First NRO Order*.. the FCC ordered that carriers be permitted to retain at least one block in every rate center served, regardless of contamination level. A CPUC study for a NANC Issue Management Group detailed the distribution of the 7,000 10 to 25 percent contaminated blocks.[3] Cox reviewed this study and submits that, in many of these cases, the blocks represent a carrier's entire inventory in a rate center, and thus would not be donated to pools.

Cox's internal analysis of its blocks in California with 10 to 25 percent contamination revcals that more than two thirds are accounted for as part of six-month inventory or as the sole resource in a ratc center. The remaining blocks are extremely highly contaminated; as such, the numbers contained in the blocks arc likely to be used in the near future, putting the contamination level over the CPUC's proposed 25 percent, perhaps even before the plan could be put in place.

The FCC should conclude, in light of these limitations on donation, that the actual number of blocks that would be donated is significantly less than the 7,000 referenced in the CPUC petition. In addition, as of November 2002, with updated data, the Pooling Administrator indicated to a NANC Issue Management Group (IMG) reviewing the issue that the number of blocks with 10 to 25 perccnt contamination had fallen by 750 – more than ten percent – since the

[1] This study is being presented to the Commission as pari of the NANC's comments.

California petition was tiled. This means carriers are using their highly contaminated blocks when the numbers meet their customers' needs.

II. The **Cost of** the Proposed Threshold Would **Not Justify** Potential Gains.

Not only is the basis for the CPUC conclusion that millions of numbers would he returned faulty, but the costs imposed upon carriers and customers for implementing the CPUC plan are significantly out ofhalance with the potential gain. The NANC and INC explored the costs of thousands block number pooling in making their respective recommendations to require the return only of blocks with ten percent or less contamination. The costs for carriers to implement TNBP have been estimated to be as high as $80 million industry-wide. The system ultimately designed for TBNP, with a ten percent trigger for block donations, was deemed to have the best costs to benefits ratio. Further engineering to accommodate a higher contamination level, combined with the additional administrative and hardware costs would stretch that ratio to a point of diminishing incremental returns.

For a 25 percent threshold level, Cox anticipates its internal costs will he driven up due to the additional quantity of intra-service provider ports; expensive adjustments to software and number administration systems that are used nationwide but would be necessary to accommodate only one market; a training program that would have to be developed for the sole purpose of managing an inventory that is handicapped by the higher contamination rate in one state; and changes to existing methods and procedures to become state-specific. Since Cox uses a third-party LNP provider, it cannot estimate the costs it would incur for additional storage capacity or the smaller and thus more frequent downloads from the NPAC.

III. The 25 Percent Threshold Would Unduly Compound California's Already Exceedingly Stringent and Unique Number Management Obligations.

Cox notes that carriers in California already must adhere to more stringent regulation than ordered by the FCC. Specifically, carriers must achieve 75 percent utilization to be eligible for growth resources, as opposed to the national requirement of 65 percent this year. Therefore, California already is experiencing number conservation measures above and beyond FCC mandates

Further, California's threshold is, in application, higher than 75 percent for residential local service providers who must comply with California's unique soft dial tone law. That law requires carriers, to the extent permitted by existing technology and facilities, to provide soft dial tone to every existing and new residential connection for an indefinite period of time.[4] This broad and open-ended obligation renders an estimated four percent of telephone numbers inaccessible for those who provide residential local exchange service since those numbers are lied up indefinitely in soft dial tone.' Although California's obligation is open-ended, the Commission's rules view soft dial tone numbers as "temporary" and categorizes soft dial tone numbers as administrative numbers.' Consequently, California residential service providers (but

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[4] California Public Utilities Code Section 2883.

(a) **All** local telephone corporations, excluding wireless and cellular telephone corporations, shall, to the extent permitted by existing technology or facilities, provide every existing and newly installed residential telephone connection with access to "911"emergency service regardless of whether an account has been established. (b) The commission shall prohibit any corporation from terminating access to the services described in subdivision (a) for nonpayment of any delinquent account or indebtedness owed by the subscriber to the telephone corporation. **A** subscriber and a telephone corporation may arrange payment schedules to regain full service. (c) The commission shall require telephone corporations to inform subscribers of the availability of the services described in subdivision (a) in a manner determined by the commission. (d) This section shall not he construed to relieve any person of an obligation to pay a debt owed to a telephone corporation. (e) Nothing in this section shall require a local telephone corporation to provide "911" access pursuant to this section if doing so would preclude providing service to subscribers of residential telephone service.

[5] NANC meeting of November 19, 2002. Intermediate Numbers presentation

"The original numbering resource optimization Notice of Proposed Rulemaking defines soft dial tone as follows: **"A** number in soft dial tone is a number temporarily assigned to line equipment and facilities which permits restricted

not wireless and business line providers) face greater difficulty achieving the already-higher 75 perccnt utilization threshold required to obtain numbers, since that threshold erroneously assumes carriers have access to those soft dial tone numbers. Ironically, the CPUC has proposed to extend this obligation to providers of telephone service to small business customers, something not required under California state law.[7] If adopted, this policy only will exacerbate the problem associated with "temporary" soft dial tone numbers, making it even more difficult for carriers to meet the utilization threshold.

Finally, the CPUC petition does not account for the gains in numbering resource efficiency that will result from the implementation of TBNP for wireless providers. Wireless TBNP has been in operation for less than a month, and likely will reduce demand for numbering resources now and in the future. Before further increasing the burdens on carriers' existing numbering resources, the Commission should allow sufficient time to see the effects of wireless pooling.

IV. Measures to Extend the Life of California Area Codes

The *Notice* asked for comments on other methods by which the CPUC's objective to extend the life of area codes could be achieved. Cox urges the Commission to permit the CPUC to implement Unassigned Number Porting (UNP) on a trial basis. Cox further suggests that the UNP trial be unconditional and mandalory. Experience with the voluntary UNP trial supposedly being conducted in Connecticut clearly demonstrates that certain large carriers will refuse to even consider any innovation that could benefit numbering resources optimization unless it is

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dialing (e.g., operator, 911, service provider business office)." Numbering Resource Optimization, *Notice of Proposed Rulemaking*, 14 FCC Rcd 10322, 10345 (1999).

[7] Rulemaking to Establish Consumer Rights and Consumer Protection Rules, *Proposed Decision*, Docket 00-02-004, Cal. Pub. Util. Comm'n (June 6, 2002), Appendix, Part 2, Rule 15.

mandated by regulators.[8] In California, a vibrant UNP arrangement could increase the practical availability of the unused numbers the CPUC addressed in its petition.

V. Conclusion

The Commission should deny the CPUC petition for waiver, and affirm the appropriateness of the existing ten percent contamination level. The FCC also should permit the CPUC to implement UNP to assist in the CPUC's effort to extend the lives of its area codes by liberating resources that might otherwise be stranded.

Respectfully submitted,

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December 13, 2002

[8] Cox recently filed an ex parte communication with the Commission detailing its concerns with the Connecticut trial, and hereby incorporates that filing by reference. *See* Letter from J.G. Harrington, counsel to Cox, to William Maher, Chief, Wireline Competition Bureau, CC Docket No. 96-98, NSD File No. L-01-86, DA 01-1210, filed Nov. 27, 2002.

CERTIFICATE OF SERVICE

I, Vicki Lynne Lyttle, a legal secretary at Dow, Lohnes & Albertson, PLLC do hereby certify that on this 13th day of December, 2002, copies of the foregoing "Comments of Cox Communications. Inc." were served on the following:

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